

## HEALTH AND SAFETY

## CHAPTER 1

## ENVIRONMENTAL QUALITY -- HEALTH

39-107D. RULES OF DEPARTMENT OR BOARD. (1) The legislature directs that any rule formulated and recommended by the department to the board which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

(2) To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize:

- (a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and
- (b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

(3) Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

- (a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects; and
- (b) Identification of the expected risk or central estimate of risk for the specific population or receptor; and
- (c) Identification of each appropriate upper bound or lower bound estimate of risk; and
- (d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and
- (e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

(4) The department shall also include a summary of the information required by subsection (3) of this section in the notice of rulemaking required by chapter 52, title 67, Idaho Code.

(5) Any rule promulgated or adopted by the board which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, submitted to the standing committee of the legislature pursuant to section 67-5291, Idaho Code, shall include a notice by the board identifying the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government.

(6) Nothing provided herein is intended to alter the scope or effect of sections 39-105(3)(g)(v), 39-118B, 39-3601, 39-4404, 39-6205, 39-7210 and 39-7404, Idaho Code, or any other provision of state law which limits or prohibits agency action or rulemaking that is broader in scope or more stringent than federal law or regulations.

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